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ENERGY AND COMMERCE COMMITTEE

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THE INTERNET

RESOURCES COMMITTEE

Congress of the United States

House of Representatives

Washington, DC 20515-2107

December 18, 2001

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Dr. John D. Haeger
President
Northern Arizona University
S. San Francisco St.
Flagstaff, Arizona
86011

Dear Dr. Haeger:

I am writing in regard to a report in the November 26, 2001 issue of Inside Energy, which stated that Northern Arizona University (NAU) transferred a shipment of virulent anthrax to Los Alamos National Laboratory (LANL) on October 26, 2001, even though LANL is not authorized to receive such shipments.

As you may know, in 1996 I introduced H.R. 3033, the "Biological Weapons Control Act of 1996" with former Representative John Kasich, and Senator Hatch (S. 1606). The bill imposed requirements for the transfer of select agents and was later signed into law as part of the Anti-terrorism and Effective Death Penalty Act of 1996 (Section 511 of Public Law 104-132). If Congress had not passed this law, America would be largely in the dark with respect to who transfers or receives bioagents in this country. Last month the House took one more step in the battle against bioterrorism by voting to expand the 1996 law to require that all select agents be registered. I am concerned that NAU and LANL may have violated the 1996 law. Consequently, I ask for your assistance in answering the following questions:

- (1) Current regulations require any laboratory seeking to transfer a select agent to

"verify with the requestor's responsible facility official, and as appropriate, with the registering entity: (i) That the requesting facility retains a valid, current registration; (ii) That the requestor is an employee of the requesting facility; and (iii) That the proposed use of the agent by the requestor is correctly indicated on CDC Form EA-101."

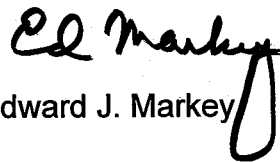
- a) Did NAU attempt to ensure that these conditions were met? Please fully describe the steps taken to do so, including providing copies of any documentation used to support your decision to transfer the virulent anthrax to Los Alamos.
- b) Has NAU ever transferred virulent anthrax (or any other select agent) to an entity that was not authorized to receive it? If so, please describe the

circumstances associated with each such event, including the type and amount of select agent, the entity the material was transferred to, the reason why NAU sent the material, and the manner in which the unauthorized transfer was resolved (i.e. disciplinary actions taken, retraining of officials, how the materials were disposed of, etc.).

- c) Please name all other entities to which NAU has shipped this particular strain of anthrax. For each entity, please indicate the amount, as well as whether the shipment contained virulent anthrax or non-virulent anthrax.
- (2) Current regulations require that prior to shipment, NAU should have a) completed CDC Form EA-101, b) complied with appropriate shipping regulations, and c) provide a copy of CDC Form EA-101 for filing in a centralized repository within 24 hours of being informed that Los Alamos had received the shipment. Did NAU comply with these regulations? Please provide copies of NAU's CDC Form EA-101 for this transfer and copies of the shipping documents.
- (3) Current regulations state that Los Alamos should have acknowledged receipt of the anthrax telephonically or otherwise electronically within 36 hours of receipt and provided a paper copy or facsimile transmission of receipt to NAU within 3 business days of receipt of the agent. Did this occur? If not, please explain how Los Alamos deviated from current regulations.

Thank you very much for your attention to this important matter. Please provide your responses by close of business January 2, 2002. Should you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,



Edward J. Markey